

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

MFA.No. 1025 of 2001()

OPMV.2050/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR

APPELLANT:

1. JANCY ANDREWS, W/O.LATE ANDROSE,
KAVUNGAL HOUSE, KALLAMPARA, P.O.PANANGATTUKARA,
WADAKKANCHERRY, THRISSUR DISTRICT.
2. AKSA (MINOR), AGED 4 ½, D/O.LATE ANDROSE,
REPRESENTED BY HER NEXT FRIEND AND GUARDIAN
MOTHER JANCY ANDROSE, RESIDING IN THE SAME ADDRESS
AS THAT OF PETITIONER NO.1.
3. BABY, MINOR, S/O.LATE ANDROSE REPRESENTED
BY HIS NEXT FRIEND AND GUARDIAN
MOTHER JANCY ANDROSE, RESIDING IN THE SAME
ADDRESS AS THAT OF PETITIONER NO.1.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. V.D.DAFIS, S/O.DEVASSY, VENNUKARAN HOUSE,
NELLANGARA, P.O.NETTISERY, THRISSUR DIST.
2. THE UNITED INDIA INSURANCE COMPANY LTD.
BRANCH KUNNAMKULAM, P.O.KUNNAMKULAM,
THRISSUR DISTRICT.

BY ADV. SRI.PMM.NAJEEB KHAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO. 1025 OF 2001

Dated this the 5th day of September, 2007

JUDGMENT

Koshy, J.

The widow and minor children of a motor accident victim filed the application contending that while the husband of the first appellant was travelling on the pillion of the motor cycle driven by the first respondent involved in an accident. The accident was occurred due to the negligence of the first respondent. They claimed compensation of Rs.3,90,500/-, limited to Rs.3,00,000/-.

2. The Tribunal found that the accident occurred while the deceased himself was riding the motor cycle and the first respondent was not the rider of the vehicle. While driving the motor cycle, a pedestrian was also hit and that pedestrian filed a complaint before the police and Exhibit B6 charge sheet was filed against the petitioner by the police, after preliminary investigation. Therefore, the Tribunal found that the accident occurred due to the negligence of the deceased himself and his dependents are not entitled to any benefit under Section 166 of the Motor Vehicles Act. However, the first respondent was the owner of the vehicle and therefore under

Section 140 of the Act, compensation was awarded and allowed the petitioner to realise an amount of Rs.50,000/- with 9% interest from the date of the petition till the date of deposit. The petitioner was also allowed to realise the same from the second respondent Insurance Company.

In view of the charge sheet and the discussions made by the Tribunal, we are of the opinion that the Tribunal came to the correct findings on the basis of the evidence adduced in this case. We see no ground to interfere with the same. The appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, J.

M.F.A.NO.1025 OF 2001

JUDGMENT

5.9.2007